

Attachment 15: Land Use and Development Code Compliance Analysis

1.1 Zoning: Land Use and Development Code

The proposed commercial cannabis activities are consistent with the Land Use and Development Code’s requirements for the AG-II-100 zone district, as they relate to permitted uses, building heights, setbacks, and parking, as discussed further below.

1.2 Development Standards

The subject property is zoned AG-II-100. Setbacks and height limit requirements for the AG-II zone are as follows:

Setbacks	
Front	50 feet from road centerline and 20 feet from edge of right-of-way
Side	None
Rear	None
Height	35 feet for a residential structure, no limit otherwise

No new buildings are proposed to be constructed as part of this project. One as-built 483-square foot agricultural tool shed is proposed to be validated as part of this project and it complies with the setback requirement and maximum height requirements of the AG-II zone for non-residential structures. In addition, the existing structures onsite are compliant with these setback and height limits.

1.3 Cannabis Regulations

Section 35.42.075 of the Land Use and Development Code establishes standards that are designed to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls, as a result of and in compliance with State law, protect neighborhood character, and minimizing potential for negative impacts on people, communities, and the environment, by establishing minimum land use requirements for medicinal and adult use cannabis activities including cultivation, processing, distribution, manufacturing, testing, and sales. As part of the LUP application, the Applicant submitted all of the required information to show that the proposed cannabis operation would be in compliance with all of the applicable standards in Section 35.42.075 of the Land Use and Development Code, as discussed below.

Development Standards from Section 35.42.075.C of the LUDC

- 1. *Archaeological and paleontological surveys.*** *When commercial cannabis activities are proposed for lots that have not been subject to prior archaeological or paleontological surveys, the applicant shall provide a Phase I cultural resources study documenting the absence of presence of cultural resources in the project area. If current or previously conducted Phase I studies indicate that archaeological or other cultural sites are located in the project area, the applicant shall prepare and submit to the Department for review and approval documentation demonstrating that the resources shall be protected in accordance with applicable cultural resource protection policies. All required studies shall be prepared in accordance with applicable cultural resource protection policies. All required studies shall be prepared in accordance with the requirements of the most current County of Santa Barbara Cultural Resources Thresholds and Guidelines, and shall be submitted to the Department for review and approval. Impacts to significant cultural resources shall be mitigated to the maximum extent feasible, including the following measures:*
 - a. In accordance with applicable cultural resource protection policies, cannabis development (e.g., buildings, grading, and trenching for utilities) shall be located in areas on a lot that would avoid impacts to significant archaeological and historic resources to the maximum extent feasible.*
 - b. As necessary, additional studies (i.e. Phase I inventory, Phase 2 significance and impact assessment, and Phase 3 mitigation) shall be conducted at the expense of the applicant.*
 - c. If significant cultural resources are located within 60 meters (200 feet) of ground disturbing activities, the resource shall be fenced and appropriately protected during grading and construction. For any work conducted within a prehistoric or ethnohistoric period archaeological site, the County shall require monitoring of the site during grading and construction (including abandonment) by an approved archaeologist and Native American observer, as applicable.*
 - d. An Education workshop shall be conducted for construction workers prior to and during construction as the County deems necessary for specific projects.*

As discussed in the Comprehensive Plan Consistency Analysis (Attachment 14 to the Board Agenda Letter dated March 10, 2020), the Applicant provided a Phase I Archaeological Assessment in accordance with the most current County of Santa Barbara Cultural Resources Threshold and Guidelines. The Phase I Study did not find cultural resources on the project site nor did it find a potential for impacting cultural resources. The study documented the absence of presence of cultural resources.

- 2. *Fencing and Security Plan.*** *The applicant for a permit to allow outdoor, mixed-light, or nursery cannabis cultivation development shall prepare and submit to the Department for review and approval a Fencing and Security Plan demonstrating ample security and screening of the commercial cannabis activity. The standards of this Section shall be in addition to Section 35.30.070 (Fences and Walls). Where there are conflicts between the standards in this Section and any other applicable standards of this Article, the standards*

in this Section shall control. The Plan shall be implemented prior to the issuance of final building and/or grading inspection and/or throughout operation of the project, as applicable. The Fencing and Security Plan shall include the following:

- a. The Fencing Plan shall depict typical fencing details, including location, fence type, and height.*
- b. All fencing and/or walls shall be made out of material that blends into the surrounding terrain and shall minimize any visual impact.*
- c. Where fencing would separate an agricultural area from undeveloped areas with native vegetation and/or Habitat Management Plan easement area, said fencing shall use material or devices that are not injurious to wildlife and enable wildlife passage.*
- d. Prohibited security fencing materials include razor wire, tarps, dust guard fencing, privacy netting, or woven or non-woven polyethylene plastic.*
- e. The fence shall include lockable gate(s) that are locked at all times, except for during times of active ingress/egress.*
- f. No visual markers indicating that cannabis is cultivated on the site shall be visible from offsite.*

The revised Fencing and Security Plan includes existing and proposed fencing locations, type, and height. Existing barbed wire fencing exists along the northern and eastern property lines. The Applicant is proposing to remove this existing barbed wire fence and to install a four-foot, redwood colored post rail fence to extend the length of the north side of the property along Highway 246 and on both sides of the driveway. In addition, the proposed Fencing Plan indicates installation of an eight-foot-tall, chain-link fence surrounding the entirety of the area where the cannabis cultivation will occur. This fence includes a 20-foot-wide, lockable gate adjacent to the parking area, wherein employees and emergency personnel may enter. There is no other point of access besides this gate. The fencing does not include prohibited materials and there will be no visual markers that cannabis is cultivated on the site. The proposed Fencing and Security Plan is included as Attachment 11 to the Board Agenda Letter dated March 10, 2020.

- 3. *Landscape Plan and Screening Plan.*** *The applicant for a permit to allow outdoor, indoor, mixed-light, or nursery cannabis cultivation development shall submit a Landscape Plan and Screening Plan to the Department for review and approval. The requirements in this Section shall also apply to the cannabis cultivation as part of a microbusiness. All cultivation shall be screened to the maximum extent feasible to avoid being seen from public places, including, but not limited to, public rights of way, shall comply with Section 35.34 (Landscaping Standards), and the standards listed below. The Landscape Plan and Screening Plan shall be implemented prior to the issuance of final building and/or grading inspection and/or throughout operation of the project as applicable. The applicant shall demonstrate to the Department that all aspects of the Landscape Plan and Screening Plan comply with the following requirements:*

- a. *Said Plan(s) shall include landscaping which, within five years, will reasonably screen the view of any new structure, including greenhouses and agricultural accessory structure, and on-site parking areas from the nearest public road(s).*
- b. *All landscaping shall be installed prior to initiating the cultivation activities that are subject to the permit for the cultivation activities.*
- c. *Prior to the issuance of any permits, a performance security, in an amount determined by a landscape architect and approved by the Department, to insure installation and maintenance for two years, shall be filed with the County. Said performance security shall be released upon a written statement from the Department that the landscaping, in accordance with the approved Landscape Plan and Screening Plan, has been installed and maintained for two years.*
- d. *If, due to site-specific conditions (e.g., slopes), an applicant believes that screening cannot be fully achieved, the applicant shall submit a Landscape Plan and Screening Plan showing what portion can be screened and written documentation, which sets forth the reasons other portions cannot be screened.*

The revised Landscape and Screening Plan complies with this requirement in that the plan illustrates the proposed landscaping along the entirety of the northern property line along West Highway 246, and along the entire western property line (see Attachment 10 to the Board Agenda Letter dated March 10, 2020). Six coast live oaks, 19 olive trees, and lavender are proposed to be planted within the front property line, along Highway 246, and eight olive trees and lavender along the western property line. In addition, grapevines are proposed to be planted in front of the proposed security fence along Highway 246 and the property entrance along the western property line to screen the security fence. The Landscape and Screening Plan that was submitted by the Applicant demonstrates that, within five years, the proposed landscaping would adequately screen the cannabis activities from public views.

4. ***Lighting Plan.*** *The applicant for any commercial cannabis activity involving artificial lighting shall submit a Lighting Plan to the Department for review and approval. The standards of this Section shall be in addition to Section 35.30.120 (Outdoor Lighting), and all other applicable Sections. Where there are conflicts between the standards in this Section and any other applicable standards of this Article, the standards that are most restrictive shall control. The Lighting Plan shall be implemented prior to the issuance of final building inspection and/or throughout operation of the project, as applicable. The Lighting Plan shall include the following:*
 - a. *Plans that identify all lighting on the lot demonstrating that all lighting will comply with the standards set forth in this Section and all applicable Community and Area Plans.*
 - b. *Lighting necessary for security shall consist solely of motion-sensor lights and avoid adverse impacts on properties surrounding the lot on which the cannabis activity is located.*
 - c. *Any outdoor lighting used for the illumination of parking areas and/or loading areas, or for security, shall be fully shielded and directed downward.*
 - d. *Lighting is prohibited in hoop structures.*

- e. *If, due to site-specific conditions, an applicant believes that a Lighting Plan is not necessary, the applicant shall submit written documentation with the application for the cannabis permit, which sets forth the reasons. The Department shall review the written documentation and determine whether a Lighting Plan must be submitted with the application for the cannabis activity.*

The revised Lighting Plan complies with these requirements in that all lighting proposed on the property is solely for security purposes and is motion-censored, hooded, and directed downward. Lights will not remain on for longer than 10 to 12 minutes per activation. The proposed lighting will be located in the parking area. The use of artificial lights will not be used for the cultivation operation; only natural lighting will be used for cultivation purposes. Additionally, the submitted Lighting Plan (Attachment 12 to the Board Agenda Letter dated March 10, 2020) illustrates that illumination will not occur beyond 55 feet from a light fixture when it is on. Existing structures are located approximately 200 feet from West Highway 246; therefore, lighting will not interfere with vehicular traffic on any portion of the highway.

5. **Noise Plan.** *The applicant for indoor, mixed light, and nursery cultivation, and manufacturing (volatile and non-volatile) permits shall prepare and submit to the Department for review and approval a Noise Plan. The Noise Plan shall be implemented prior to the issuance of final building inspection and/or throughout operation of the project as applicable. The Noise Plan shall demonstrate compliance with the following standards:*

- a. *Buildings shall be adequately soundproofed so that interior noise shall not exceed 65 decibels beyond the property. The Plan shall identify noise-generating equipment that will be used and the noise level associated with each.*
- b. *Environmental control systems shall be located and/or shielded to avoid generating noise levels above 65 decibels heard by sensitive receptors, in compliance with the Santa Barbara County Noise Element.*
- c. *The combined decibel level for all noise sources, as measured at the property line of the lot on which the cannabis activity is located, shall not exceed 65 decibels.*
- d. *The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency. The noise produced by a generator shall not be audible by humans from neighboring residences.*

The proposed Noise Plan (Attachment K to the Planning Commission staff report dated July 17, 2019) provided by the Applicant demonstrates compliance with these requirements in that the Applicant details the proposed sources of noise associated with the cannabis operations. The Applicant provided a detailed Noise Study that demonstrates the combined decibel level for all noise sources, as measured at the property line of the lot on which the cannabis activity is located, shall not exceed 65 decibels. The Applicant demonstrated that the maximum noise level will be 62.25 dB.

6. **Odor Abatement Plan.** *The applicant for cultivation, nursery, manufacturing (volatile and non-volatile), microbusiness, and/or distribution permits, shall (1) prepare and submit to the Department for review and approval, and (2) implement, an Odor*

Abatement Plan. No odor abatement plan shall be required in AG-II zoning, unless a CUP is required.

The proposed cannabis cultivation is located on property zoned AG-II and only requires a Land Use Permit, therefore, does not require an Odor Abatement Plan.

7. Signage. *All signs shall comply with Chapter 35.38 (Sign Standards).*

No signs are proposed as part of this project.

8. Tree Protection, Habitat Protection, and Wildlife Movement Plans. *The applicant for any cannabis permit for a site that would involve the removal of native vegetation or other vegetation in an area that has been identified as having a medium to high potential of being occupied by a special-status wildlife species, nesting bird, or a Federal or State-listed special-status plant species, shall prepare and submit to the Department for review and approval a Tree Protection, Habitat Protection, and/or Wildlife Movement Plan in accordance with Appendix J: Cannabis Activities Additional Standards. The Tree Protection, Habitat Protection, and Wildlife Movement Plan shall be implemented prior to the issuance of final building and/or grading inspection and/or throughout operation of the project as applicable.*

The proposed cannabis cultivation project is over 100 feet from the Santa Ynez River and is not located on a property that contains Environmentally Sensitive Habitats.

Furthermore, the proposed project does not involve the removal of native vegetation or other vegetation in an area that has been identified as having a medium to high potential of being occupied by a special-status wildlife species. Therefore, the proposed project does not require a Tree Protection, Habitat Protection, or Wildlife Movement Plan.

Additional Applicable Development Standards from Section 35.42.075.D of the Land Use and Development Code

1. Avoidance of prime soils. *All structures for cannabis cultivation operations, including, but not limited to, greenhouses that do not rely on in-ground cultivation, that are located on premises that contain prime soils shall be sited to avoid prime soils to the maximum extent feasible. Ancillary use facilities shall not be located on prime soils unless the Director determines that an alternative location on nonprime soils does not exist within a reasonable distance of the proposed site.*

The proposed project does not include any buildings to be located on prime soils, and no new buildings are proposed to be constructed as part of this project. Therefore, the proposed project is sited and designed to avoid prime soils.

2. Cannabis Waste Discharge Requirements General Order. *The applicant shall demonstrate compliance with the State Water Resources Control Board's comprehensive Cannabis Cultivation Policy which includes principles and guidelines for cannabis cultivation, including regulations on the use of pesticides, rodenticides, herbicides, insecticides, fungicides, disinfectants, and fertilizers, within the State.*

The Applicant provided proof in the form of a letter (included as part of Attachment E to the Planning Commission staff report dated July 17, 2019) that the project complies with the State Water Resources Control Board with regard to appropriately discharging waste associated with cannabis cultivation related activities.

3. ***STDMP.*** *The applicant shall prepare and submit to the Department for review and approval a Site Transportation Demand Management Plan that includes the lot location, total number of employees, hours of operation, lot access and transportation routes, and trip origins and destinations. The Site Transportation Demand Management Plan shall include at least one of the following methods to reduce vehicle trips generated by the cultivation operation:*
- 1) *Provide for carpool/shuttle/mini bus service for employees, especially during harvesting periods, on cultivation lots.*
 - 2) *Provide shared parking areas for ridesharing on large and/or rural lots.*
 - 3) *Provide bicycle storage/parking facilities.*
 - 4) *Provide incentives to employees to rideshare or take public transportation.*
 - 5) *Implement compressed or flexible work schedules to reduce the number of days per week that employees are needed.*

The revised STDMP (Attachment 13 to the Board Agenda Letter dated March 10, 2020) complies with these requirements in that the Applicant has provided information regarding the proposed transportation routes, trip origins and destinations, the hours of operation, and lot access. The proposed cannabis operations will take place between 6:00 a.m. and 6:00 p.m. Harvest periods for the cannabis operation are expected to occur twice a year, each one lasting approximately three weeks. At harvest, the site will require 40-50 workers. During non-harvest times, the site will employ 4-5 workers. The proposed parking for the site includes approximately 44 spaces and 6 vanpool spaces, for a total proposed parking area of 50 parking spaces. The STDMP includes vanpools, bicycle storage, and monetary incentives for employees who choose to carpool in order to reduce the vehicle trips generated by the proposed cannabis activities.

4. ***Water efficiency for commercial cannabis activities.*** *To the maximum extent feasible, and to the Director's satisfaction, water-conserving features shall be included in the design of proposed cannabis cultivation. These features may include, but are not limited to:*
- 1) *Evaporative barriers on exposed soils and pots.*
 - 2) *Rainwater capture and reuse.*
 - 3) *Recirculated irrigation water (zero waste).*
 - 4) *Timed drip irrigation.*
 - 5) *Soil moisture monitors.*
 - 6) *Use of recycled water.*

The proposed project will use raised beds with evaporative barriers and time drip irrigation. Water will be sourced from the agricultural well on site. Rainwater will be directed into cultivated areas. Therefore, the proposed project complies with this standard.

5. ***Cultivation on lots zoned AG-II located adjacent to an Existing Developed Rural Neighborhood (EDRN) and/or Urban Rural boundary, shall require approval of a Conditional Use Permit.***

The subject property is zoned AG-II, however the nearest EDRN to this property is approximately 3,971 feet from the property line and is over 2 miles from the nearest Urban Rural boundary. Therefore, the subject site is not located adjacent to an EDRN or an Urban Rural boundary and, therefore, does not require the approval of a Conditional Use Permit.